



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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Contact Person:

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4942.03-05

Contact's Identification Number:

Telephone Number:

SE:T:EO:RA:T:2

Employer Identification Number:

Legend:

F =

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Dear :

This is in reply to your request, dated March 31, 2006, and supplemented on December 14, 2007, for rulings on your proposed awards program for past achievements by individuals.

Facts

You are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and are classified as a private operating foundation under section 4942(j)(3).

You desire to establish an award program intended to recognize individuals for their past charitable, scientific, educational or literary achievements. The awards will be for recognition of past achievements of individuals who have contributed to the betterment of their community, country or world. More specifically, the award will recognize the promotion of mutual understanding, friendship, cooperation and lasting peace among peoples; contributing to the alleviation of human suffering, protection of life, or the promotion of health; education of the people on the meaning and importance of humanity and human dignity; and/or promotion of the respect for human beings.

The recipients of the awards will be chosen by your award selection committee and governing body on the basis of the recipient's past achievement(s) related to your type of exempt purposes, such as wide positive impact on the promotion of mutual understanding, friendship, cooperation, and lasting peace among all peoples; contributing to the alleviation of human suffering, the protection of life, the promotion of health; the education of the public, the meaning and importance of humanity, human dignity, love and forgiveness; and respect for human beings.

You submitted your proposed guidelines for the selection process. The selection process includes objective and nondiscriminatory criteria for selection of a recipient. The recipient of an award will be determined by the majority vote of a selection committee, comprised of your Board of Directors. An independent review committee of approximately six to twelve individuals, who meet certain criteria with regard to their leadership, expertise, and authority will review and score the nominations. A select number, up to fifteen, of the top scoring nominations will then be sent on to a panel of judges for final selection. You represent that you will have a strict conflict of interest policy in place. Your goal is to generate at least 500 submissions and 50 qualified candidates in your early years, with increasing numbers each subsequent year. Additionally, the availability of the awards and the awardees will be made known to the public.

The choice of recipients of the award will be based solely on the selection committee's judgment that is consistent with your stated purposes. The award recipients may include U.S. residents as well as residents of other countries. You have represented that awards will not be made to persons who are relatives of your governing body, to the members of your selection committees, to your employees, or to any other disqualified persons with respect to you under Chapter 42 of the Code.

You state that the award will be paid in a lump sum and/or yearly installments. You represent that each year you plan to make from one to three larger awards totaling x amount. Also, you state that you may make about seven smaller similar awards totaling about y amount per year.

You have represented that (1) any awards under the program will not be related to study, travel or similar purposes; (2) the awards will be made by you to pursue your charitable, scientific, educational or literary purposes; (3) you will not impose conditions on the manner in which the recipient may expend the award; and (4) the award will not be intended to finance any future activity of the recipient.

Additionally, there is no action to be taken on the part of any recipient to obtain this award. There is no service or commitment made by any recipient as a result of this award. The recipient need not account for his or her uses of the personal award money. The recipient will be selected from the United States and/or the international general public.

### **Rulings Requested**

You requested rulings that:

1. The awards to be made to individuals under your proposed awards program are not made for travel, study, or similar purposes under section 4945(d)(3) of the Code.
2. Such awards are not subject to approval by the Service under section 4945(g) of the Code because they are not for travel, study or other similar purposes.
3. Such awards are not taxable expenditures within the meaning of section 4945 of the Code.

4. Such awards will constitute qualifying distributions under section 4942(g)(1) of the Code.

### **Law**

Section 501(c)(3) of the Code provides for the exemption from federal income tax of nonprofit organizations organized and operated exclusively for charitable and/or educational purposes.

Section 509(a) of the Code provides that certain organizations exempt from federal income tax under section 501(c)(3) are private foundations subject to the provisions of Chapter 42, including sections 4942 and 4945.

Section 4942(g) of the Code provides that private foundations must make qualifying distributions for exempt purposes, and defines a qualifying distribution as including amounts paid by a private foundation to accomplish one or more of its exempt purposes under section 501(c)(3) of the Code.

Section 4942(j)(3) of the Code concerns the requirements of private operating foundations under section 4942(j)(3). Under section 4942(j)(3) and section 53.4942(b)-1(b)(2) of the Foundation and Similar Excise Taxes Regulations ("regulations"), qualifying distributions under section 4942(g) as payments to individual beneficiaries must be for the "direct active conduct" of the operating foundation's exempt purposes with "significant involvement" in the exempt activity.

Section 4945 of the Code imposes excise tax on a private foundation's making of any "taxable expenditure" as defined, in pertinent part, by sections 4945(d)(3) and 4945(d)(5).

Section 4945(d)(3) of the Code provides that a taxable expenditure includes an amount paid by a private foundation "as a grant to an individual for travel, study, or other similar purposes by such individual", unless the foundation grant procedure meets the requirements under section 4945(g) for pre-approval by the Internal Revenue Service in advance of making the grants.

Section 4945(d)(5) of the Code provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B), that is, other than for exclusively religious, charitable, scientific, literary, or educational purpose, or to foster national or international amateur sports competition (not involving the provision of athletic facilities or equipment) or for the prevention of cruelty to children or animals.

Section 4945(g) of the Code and section 53.4945-4 of the regulations concern the pre-approval by the Internal Revenue Service of grant procedures for grants to be made by private foundations to individuals "for travel, study, or other similar purposes".

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that:

- (1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) of the Code (as in effect on the day before the date of the enactment of the Tax Reform Act of October 22, 1986) and is to be used for study at an

educational organization described in section 170(b)(1)(A)(ii), or

(2) the grant constitutes a prize or award which is subject to the provisions of section 74(b) of the Code (without regard to section 74(b)(3) thereof) if the recipient of such prize or award is selected from the general public, or

(3) the purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(a)(1) of the regulations provides that in general, the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual unless the grant satisfied the requirements of section 4945(g).

Section 53.4945-4(a)(3)(i) of the regulations provides that a grant to an individual for purpose other than those described in section 4945(d)(3) of the Code is not a taxable expenditure within the meaning of section 4945(d)(3).

Revenue Ruling 77-380, 1977-2 C. B. 419, Situation 1, holds that an award for journalism past achievement does not require the additional pre-approval procedure by the Internal Revenue Service under section 4945(g) of the Code where the award "is granted in recognition of past achievement in this particular field of journalism, and is not intended to finance any specific activities of the recipient..." The awards "are not intended to finance any future activity of the recipient. There are no conditions or requirements to be met subsequent to receiving the grants."

### **Analysis**

In your case, as in Revenue Ruling 77-380, Situation 1, cited above, you have represented that these recognition of past achievement awards by you will not require any action or future action by the recipient, will not be made for travel, study, or similar purposes, and that they are awarded on an objective and nondiscriminatory basis. Thus, the awards will not be treated as grants for travel, study, or other similar purposes under section 4945(d)(3) of the Code.

Also, your awards do not require the pre-approval by the Internal Revenue Service under section 4945(g) because such pre-approval is directed to foundation grant procedures for grants to be used by the recipient for travel, study, or similar purposes, and your awards will not be paid for any of those purposes but, instead, will be paid only for the past achievement(s) of the grantee in the matters valued by your exempt purposes and without any required action by the grantees and are not intended to finance any future activities of the recipient. Your awards further one of your exempt humanity purposes and as such the awards will be qualifying distributions for exempt purposes under section 4942(g).

A grant is a taxable expenditure under section 4945(d)(5) of the Code if the grant is made for any purpose other than one specified in section 170(c)(2)(B). Since your awards are for purposes

described in section 170(c)(2)(B), amounts paid by you are amounts paid to accomplish a purpose described in section 170(c)(2)(B) and, therefore, the awards are not taxable expenditures.

### **Conclusion**

Accordingly, provided that your awards will be made as described for exempt purposes under section 501(c)(3) of the Code, we rule that:

1. The awards will not be treated as grants for travel, study, or other similar purposes under section 4945(d)(3) of the Code.
2. The awards do not need pre-approval by the Internal Revenue Service under section 4945(g) of the Code.
3. The awards will not be taxable expenditures by you under section 4945(d)(5) of the Code.
4. The awards will be qualifying distributions for your exempt purposes under section 4942(g)(1) of the Code.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling letter is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Robert C. Harper, Jr.  
Manager, Exempt Organizations  
Technical Group 2